

Role of Clearinghouse

- The clearinghouse should be: (1) independent and not-for-profit; (2) able to commence operations within 90 days of selection (including the ability to electronically receive prior coordination notices and relocation cost data electronically); (3) structured in a manner to ensure confidentiality; (4) experienced in spectrum and database management; and, (5) have a viable business plan for equitably securing start-up expenses and ongoing funding. (14-15)
- The clearinghouse should receive PCNs from PCS providers, in accordance with NSMA's recommendations, determine whether interference would have been caused, and calculate contribution requirements under the rules. (16)

Dispute Resolution

- Parties should not be forced to resolve issues with the clearinghouse involved; rather, the parties should be required to use ADR techniques. (15-16)

Relocation Rule Modifications

Definition of Good Faith and Comparable Facilities

- If a PCS entity has acted in good faith in the negotiation periods, it should be responsible only for compensation for comparable facilities and the incumbents license should automatically revert to secondary status -- at a minimum the incumbent should be responsible for constructing and testing the new facilities and should lose its right to relocate back if its facilities are not comparable. (20)

Public Safety Certification

- Supports proposal to require public safety licensees to prove that they are providers of such services before they are eligible for the extended negotiation period, specifically suggesting that such entities provide documentation of their status within 30 days of initiation of relocation negotiations. (12)

Dispute Resolution

- Supports proposal to require submission of independent cost estimates by both the incumbent and the relocater during the voluntary negotiation period to set the standard for good faith in negotiations. (11-12)

New Microwave Licensing in PCS Band

- PCS licensees should not have to relocate incumbents with secondary status, since they were on notice the band is being reallocated, and no licensees should be entitled to cost sharing in the event such relocations are undertaken. (9)

Twelve-Month Test Period

- The FCC should clarify that the trial period is not inviolate and can be reduced or eliminated by contract. (11)

Application of Rules to Other Spectrum

- Cost sharing should be generally applicable to all emerging technologies, but specific requirements for other services should be imposed in service-specific rulemakings, since each service presents unique technical, financial and other considerations. (2-3)

CAROLINA PCS I LIMITED PARTNERSHIP

Interest: Applicant for upcoming PCS C Block auction

Cost Sharing

- Proposes that the Commission or responsible clearinghouse look exclusively to the actual technical parameters of the subsequent licensee's system to determine whether a cost-sharing obligation attaches to the subsequent licensee. Prudent licensees who avoid interference through design and channelization should benefit from such planning by exemption from the cost sharing obligation. (3)

Installment Payments Eligibility/Requirements

- Supports the Commission's proposed adoption of installment payment plans for any cost-sharing obligation incurred by C Block Licensees. C Block applicants may not have secured adequate financing because they were unaware that the Commission would require them to reimburse existing licensees up to \$400,000 per link. (1-2)
- Supports the adoption of payment plans which correspond to the license payment plans the Commission offers to C Block applicants. (2)
- Recommends that qualifying F Block licensees also be eligible for one of the installment plans for all incurred cost-sharing obligations. (2)

CENTRAL IOWA POWER COOPERATIVE ("CIPCO")

Interest: Private microwave operator

Cost Sharing

- Adoption of suitable cost-sharing plan will encourage relocation of entire microwave systems rather than individual links. (1)

Reimbursement Cap

- Agrees with \$250,000 per link cap plus \$150,000 for towers for links replaced before December 31, 1997, and increasing by five percent per year afterward. (1)

Relocation Rule Modifications

Definition of Good Faith and Comparable Facilities

- Agrees with proposed definition of comparable facilities. (1)
- There should be no accounting for technological disparities between old and new equipment. No depreciation schedules should be applied to the cost of the new equipment and systems. The microwave licensee will be greatly harmed without full compensation when it must pay high market pricing and curtail other budget items to free funds for relocation. (2)
- Agrees with limiting recurring costs to one ten-year term. However, suggests making PCS licensees make reimbursements based on a present value basis using a set interest cost (possibly 9 percent per year), instead of for monthly or annual expenses. (1-2)

Compensable Costs in Voluntary/Mandatory Periods

- Agrees with proposed reimbursable costs. Reasonable legal costs, up to \$5000 per link, should also be reimbursable. (1)

CITY OF SAN DIEGO, CALIFORNIA

Interest: 2 GHz licensee

Cost Sharing

- Generally supports cost sharing plan particularly if it facilitates the relocation of microwave networks. (3-4)

Reimbursement Cap

- Supports cap as long as it is clear that this is a cap on costs that can be shared and not on permissible compensation to incumbents. (5)

Relocation Rule Modifications

Voluntary Negotiation Period

- Supports allowing negotiations in the voluntary period which may include premiums as an incentive to relocate quickly. (5)

Definition of Good Faith and Comparable Facilities

- Suggests that an offer is a good faith offer if the incumbent would be made whole. Relocation is difficult, expensive, and uses limited internal resources. Making incumbents whole includes all expenses, both internal and external. Anything less amounts to incumbents subsidizing the establishment of PCS networks. (8)
- Urges the FCC to focus on comparable functionality, not comparable value. The book value of an existing system is completely irrelevant to the primary objective of the relocation process to assure that the incumbent can continue to communicate at least as well as it did before. (8)
- Supports considering the factors of communications throughput, systems reliability, and operating cost in determining a comparable system but to avoid penalizing incumbents who had anticipated growth in usage, the FCC should rule that a system's potential capability, especially in terms of throughput, is the replacement standard. (8-9)

Compensable Costs in Voluntary/Mandatory Periods

- The FCC should clarify its language regarding whether attorneys and consultants fees are reimbursable. Such fees should be reimbursable at least

during the voluntary and mandatory periods since incumbents are often not skilled in conducting such negotiations. In addition, PCS licensees are being represented by skilled negotiators. These are expenses that would not be incurred except for the need to relocate. (10-11)

Public Safety Certification

- Opposes the FCC's proposal to require that public safety incumbents prove that they are entitled to extended negotiation periods. It puts the ultimate determination in the hands of a party that is inherently biased against finding that a system carries a majority of public safety traffic. A written claim of public safety status, supported by self certification, is the most the FCC should require. (12-13)

Dispute Resolution

- Supports using mutually-acceptable, independent third parties to determine comparable facilities as long as the cost of that determination is also reimbursable. Incumbents who agree to such dispute resolution should be considered to be negotiating in good faith even if they reject an offer that the PCS licensee says is an offer of comparable facilities. (9)

Twelve-Month Test Period

- Microwave licenses issued by the FCC often contain several paths in several different bands. As part of the relocation agreement, the incumbent may agree to delete from its license(s) the paths that comprise the link(s) in question, but it would not be appropriate to surrender the license totally unless the links in question were the only links shown on the license. (13)

COX & SMITH INC.

Interest: Microwave incumbent representative

Relocation Rule Modifications

Definition of Good Faith and Comparable Facilities

- The Commission should reconsider whether it may be necessary for individual components to be more reliable than the overall system. (5)

Compensable Costs in Voluntary/Mandatory Periods

- Opposes exclusion of attorney and consultant fees from reimbursable costs because of agency assurances that all costs of relocation will be paid. However, favors caps on these fees. Opposes requiring PCS relocators to approve these fees in advance. (2-4)

DCR COMMUNICATIONS, INC.

Interest: Small, minority and woman-owned C block bidder

Cost Sharing

- Cost sharing would help to ameliorate the head start granted to A and B blocks. (3)
- Favors a mandatory cost-sharing plan which would result in faster and more efficient deployment of PCS. (2)

Use of Formula

- Believes that the initial PCS relocater should always be required to pay the largest share of expenses. Increased incentive to negotiate lowest price. Initial PCS relocater enjoys all initial benefits. (3)

Compensable Costs

- Premium payments should not be reimbursable. (4)

Reimbursement Cap

- Supports proposed relocation cap. (4)

Interference Standard and Trigger for Obligations

- Favors TIA Bulletin 10-F standard. (6)
- Reimbursement should not be required until the time that the subsequent licensee's operations would have caused interference to the relocated link. (7)
- Where adjacent channel interference is a problem it should be treated in the same manner as co-channel interference for reimbursement calculations. (6)

Installment Payments Eligibility/Requirements

- Plan to adopt C Block style installment plan would ease the burden of cost-sharing for smaller entities. (9)

Role of Clearinghouse

- Licensee should be required to contact clearinghouse to determine its reimbursement obligation prior to initiating commercial service, but not prior to testing. (8)

Relocation Rule Modifications

Definition of Good Faith and Comparable Facilities

- An incumbent that fails to accept an offer of comparable facilities should be deemed to be acting in bad faith unless it can prove otherwise. (10)
- Comparable facilities should encompass throughput, reliability, and operating cost. (10)

EAST RIVER ELECTRIC POWER COOPERATIVE

Interest: Utility cooperative

Cost Sharing

- Supports general cost sharing plan. Encourages relocation of entire systems rather than individual links. (1-2)

Reimbursement Cap

- Agrees with cap but suggests CPI escalation factor. Reimbursement based on recurring costs should be based on a present value basis of 9% per year. (2)

Relocation Rule Modifications

- Depreciation schedules should not be applied to the cost of the new equipment and systems. (2)

Compensable Costs in Voluntary/Mandatory Periods

- List of reimbursable costs should be illustrative not limiting. Legal costs should be reimbursable. (2)

New Microwave Licensing in PCS Band

- The Commission should maintain the existing rules governing primary and secondary status for modification and minor extensions in the new rules. Minor extension should be granted primary status. (2)

Secondary Status in 2005

- Current rules provide for more reasonable voluntary relocation period and will act as an incentive to treat all incumbents fairly. Arbitrary end date limits incentive for shared spectrum technologies. (3)

GO COMMUNICATIONS CORPORATION

Interest: Entrepreneur Block auction participant

Cost Sharing

- Generally supports the FCC's cost sharing plan. (1-2)

Use of Formula

- Supports use of the formula described in the NPRM. Believes that it is fair for relocater to pay more since it has the tremendous advantage of being the first to market in the extremely competitive field of wireless communications. (2)
- Because of the difficulties of confirming the date when depreciation would start, the T_1 variable should be calculated based on a uniform date for all PCS licensees. This would also be a small step toward remedying the disadvantages faced by entrepreneurs due to factors beyond their control. (3)

Compensable Costs

- Only actual relocation costs should be reimbursable. Not allowing recovery of premiums will not inhibit relocation during the voluntary negotiation period. Allowing recovery of premiums would be subsidizing the tremendous advantage that initial PCS licensees have in being first to market. (4)

Reimbursement Cap

- Supports cap proposed by the FCC. The clearinghouse must ensure that costs for links which are more expensive to relocate are not passed on to subsequent PCS licensees in reimbursements for less expensive links. (5)

Interference Standard and Trigger for Obligations

- Supports proposal that reimbursement should be required only if the subsequent licensee's systems would have caused interference to or received interference from a co-channel microwave system. (6-7)

Installment Payments Eligibility/Requirements

- Supports the FCC proposal that designated entities should have the same payment options available to them for cost sharing obligations as for their licenses. (5-6)

Role of Clearinghouse

- Supports appointment of a qualified neutral entity to function as administrator of the cost sharing plan. (3 n.6)

Relocation Rule Modifications

Voluntary Negotiation Period

- The FCC should initiate an expedited rulemaking to replace the two-year voluntary negotiating period for all PCS licensees and microwave incumbents with a one-year mandatory period. All parties would be required to negotiate in good faith and if an agreement was not reached at the end of one year, the PCS licensee could request involuntary relocation. This would facilitate a competitive PCS market by: 1) giving incumbents less leverage in demanding excessive premiums from PCS licensees and 2) helping close the gap between A and B block licensees and those in the C block. (7-9)

Definition of Good Faith and Comparable Facilities

- Supports FCC's proposed definition for good faith negotiations. (8 n.18)

GTE SERVICE CORPORATION

Interest: Telephone and wireless service provider

Cost Sharing

- Supports concept of cost sharing. Has entered into private agreement ("Agreement") with AT&T Wireless, Sprint Telecommunications Venture and PCS Primeco for the sharing of relocation costs. Believes that its plan has advantages over the FCC's proposal and urges adoption of a plan based on its outline. (2)

Use of Formula

- The Agreement provides for much simpler calculations than would be required under the FCC's formula. All parties holding PCS licenses are obligated, as determined by the Proximity Threshold, to share costs on a per link basis: it is simple to apply, is more equitable, and does not require parties to calculate the relative benefit of the relocation payment to licensees that enter the market subsequent to the initial licensee. (10)
- Believes that the time value of money is not a significant factor in determining the cost sharing obligations. Even if it is significant in some situations, each entity would likely benefit from failure to consider the time value of money as often as it would suffer from non-consideration of this factor. However, it may be necessary to account for the time value of money in order for the Agreement to work for licensees in bands C-F. Supports amending the cost sharing mechanism in the Agreement to account for the time value of money with a mechanism that for example, lowered the cost sharing obligation by 10 percent per year or 20 percent every two years. (10-11)

Compensable Costs

- Under the Agreement, premium payments may be recovered from subsequent licensees so long as the total relocation cost does not exceed \$250,000 per link. In order to recover any relocation costs up to and including \$250,00 per link, the party making payment need only show that the payments were actually made to the incumbent in connection with the relocation. For costs over \$250,000, the party seeking sharing must provide documentation showing that the costs were reasonable and necessary and reflect actual costs of relocation. This is better than the NPRM's proposed mechanism because it strikes a balance between allowing recovery of some reasonable premium payments and providing incentives to keep premium payments low, and it limits the number

of disputes over relocation costs by eliminating the need to justify costs under \$250,000 per link. (13-14)

Sunset Period

- Although the Agreement contemplates a ten year sharing period, because of its different start dates, it is slightly different. Therefore, the FCC should allow the sunset date set forth in the Agreement to govern the cost sharing obligations among its signatories. (16)

Reimbursement Cap

- Believes that no cap is necessary so long as the paying licensee is required to sufficiently document its costs. Capping costs unfairly and unnecessarily punishes the paying party. Future licensees will have ample relocation cost information both from estimates and from actual relocation expense paid by other licensees. (15)

Reimbursement Rights and Date of Obligation

- Believes that cost sharing obligations should begin on September 28, 1995 for the signatories to the Agreement so as not to preempt its provisions. (16)
- Supports the FCC's proposal that a subsequent licensee should be obligated to share costs at the time the subsequent licensee commences commercial operations. (16-17)

Interference Standard and Trigger for Obligations

- Proposes use of a "Proximity Threshold" to determine whether a subsequent licensee has an obligation to reimburse a prior licensee for relocation costs because it is less complex than the calculations required by the NPRM and will save PCS licensees time and money even though it is only a rough approximation of when interference actually would occur. An obligation would be triggered if for any microwave link:
 - 1) All or part of the link is co-channel with the licensed A and/or B PCS band(s) of two or more Parties to the Agreement;
 - 2) Another Party to the Agreement (the relocating licensee) has paid the relocation costs of the incumbent microwave licensee; and
 - 3) The subsequent licensee turns on a fixed base station ("FBS") at commercial power and the FBS is located within a rectangle described as follows: The length of the rectangle shall be x where x is a line

extending through both nodes of the microwave link to a distance of 30 miles beyond each node. The width of the rectangle shall be y where y is a link perpendicular to x and extending for a distance of 15 miles on both sides of x .

If the requirements above are met for one microwave link in a microwave network, a party will incur cost sharing obligations pursuant to this Agreement for the entire microwave network except that no obligation will exist for any microwave link where both nodes of that link lie more than 50 miles beyond the boundaries of the MTA where the requirements set forth above are met. (6)

- The Proximity Threshold will capture a significant amount of adjacent channel interference because the Threshold is triggered when the licensed PCS block overlaps with any part of the decommissioned link's previously licensed operating band. For purposes of determining the duty to pay, a microwave link is considered co-channel even if the relocated facility did not operate on all of the microwave licensee's allotted spectrum and even if the PCS licensee's FBS does not operate on a channel used by the relocated link. (8)

Role of Clearinghouse

- The Agreement does not contemplate the use of a clearinghouse because the cost sharing mechanism is simple and efficient. However, a clearinghouse may be beneficial if the FCC adopts the Agreement's cost sharing principles for the entire industry, but it would probably only be necessary to facilitate clearing of accounts among PCS licensees. (12)

Private Agreements

- The FCC should take no auction that would prohibit private cost sharing agreements. (iii)

Relocation Rule Modifications

Definition of Good Faith and Comparable Facilities

- Supports the FCC's tentative conclusions that an offer by a PCS licensee to replace an incumbent's system with comparable facilities constitutes a good faith offer and that failure to accept such an offer would create a rebuttable presumption that the incumbent was not acting in good faith. (17)
- Supports FCC's proposed definition of comparable facilities and the factors it proposes to consider in determining if facilities are comparable. (18)

Dispute Resolution

- Supports the FCC's encouraging incumbents and PCS licensees to attempt to settle disputes over relocation through ADR techniques. (18)

New Microwave Licensing in PCS Band

- Supports the FCC proposals that no new microwave stations be granted primary status in the 2 GHz band and that only minor modifications and extensions by existing primary status licensees be allowed. (19)

Twelve-Month Test Period

- Does not object to the FCC's clarifications regarding the start and end dates of the test period and that a relocated incumbent would retain its right to receive comparable facilities even if it surrendered its license prior to expiration of the trial period. (18-19)
- The FCC should clarify that incumbents may explicitly waive their test period rights. (19)

Appendix -- Agreement

INDUSTRIAL TELECOMMUNICATIONS ASSOCIATION, INC.

Interest: Represents private land mobile radio operators

Cost Sharing

- Supports realistic approach for sharing microwave relocation costs. Supports measures that will promote the relocation of entire networks rather than individual links. (7)

Use of Formula

- Generally supports the FCC formula as precise and straight-forward. It might be desirable to incorporate non-cash transactions, but this would be complex in implementation. (7)

Role of Clearinghouse

- A clearinghouse will be needed to administer the cost sharing process. The FCC should solicit proposals from all entities having an interest in serving as the clearinghouse. (8-9)

Private Agreements

- PCS licensees should be free to negotiate alternative cost-sharing terms. (7)

Relocation Rule Modifications

Voluntary Negotiation Period

- Commends the FCC for refraining from any proposals that would significantly alter the voluntary negotiation period. The rules do not require good faith negotiating during the voluntary period. PCS licensees are free to offer the microwave incumbents a variety of incentives to expedite relocation. (3-4)
- To impose a good faith negotiation requirement during the voluntary period would undermine its purpose. Incumbents may negotiate with PCS providers but are not required to do so. (4)
- There are several reasons to adhere to the established relocation regime. It provides clear notice of incumbent rights and expectations and a sense of balance between the rights of incumbent licensees and PCS system operators. The existing structure was carefully crafted through an extended rulemaking proceeding. The procedures adopted for incumbents will exert a prominent

precedent-setting role in other proceedings. The ramifications of rewriting the rules will extend to future relocation efforts. Federal agencies will also be affected from any adverse precedent that might be established as government spectrum is reallocated to non-government use. (5-6)

INFOCORE WIRELESS, INC.

Interest: Participant in Entrepreneurial Block auctions

Cost Sharing

- Opposes the cost sharing proposal put forward in the NPRM as inappropriate and unnecessarily complicated. Suggests that "the Commission utilize its extensive knowledge and data about the existing universe of microwave users to identify specifically the relocation requirements for each and every potential license franchisee. By clearly establishing a listing of the relocation obligations and the associated licensees, the Commission eliminates the uncertainty of a 'voluntary' negotiation process, identifies all of the parties affiliated with any particular circuit, and resolve the inefficiencies of 'link by link' relocation efforts. (2-3)

INTERCEL, INC.

Interest: Broadband PCS licensee

Relocation Rule Modifications

Voluntary Negotiation Period

- Advocates broadly defining parameters for negotiation during the voluntary period, but requiring "good faith." The Commission's goal was to provide rapid availability of PCS to consumers and smooth relocation, not to provide a windfall to incumbents. (4)
- Supports return to old policy of limiting availability of tax certificates to those incumbents who agree to relocation during the voluntary period. (5)

Definition of Good Faith and Comparable Facilities

- "Good faith" requires participating in negotiations if either party so requests. (4)

INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA

Interest: Public safety licensees

Cost Sharing

- Supports cost-sharing as method to speed negotiations. (2)

Reimbursement Cap

- Concerned about cap placing an arbitrary value on relocation and impacting voluntary negotiations. Favors the adoption of a specific percentage which could be recovered from the relocation of each link, based on the total cost of an individual relocation. (2)

Relocation Rule Modifications

- The current privately negotiated relocation system is working. (1)
- The multi-state, multi-regional gas communications systems require system-wide plans, not piecemeal changes. (2)

Definition of Good Faith and Comparable Facilities

- Would be illogical to replace analog with analog. Since when originally purchased analog was state-of-the-art, it should now be replaced with state-of-the-art digital technology. (2)

Secondary Status in 2005

- Grave concerns that rural areas will not receive adequate notification prior to the proposed secondary date. (3)

IOWA L.P. 136

Interest: C Block applicant

Cost Sharing

- Magnitude of relocation costs would impose an onerous financial burden on small businesses like Iowa L. P. and impede competitiveness. (2)

Reimbursement Rights and Date of Obligation

- Small businesses as defined in Section 24.720(b) should be exempted from payment of relocation costs during the involuntary relocation period. Incumbent microwave licensees are in a stronger position to bear these costs than small businesses. The Commission outlines problems that small businesses have obtaining capital and the Congressional goals of aiding these entrepreneurs. In lieu of a complete exemption, the Commission may consider an exemption from cost-sharing or a combination of credits and installment payments to ease the burden of cost sharing. (3-7)

**LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
THE COUNTY OF LOS ANGELES**

Interest: Licensee and operator of microwave system

Cost Sharing

- Generally supports cost sharing among PCS providers, particularly as it encourages the relocation of entire microwave networks rather than individual links. (2-3)

Reimbursement Cap

- Opposes any cap on reimbursement costs. All PCS licensees that benefit from the relocation of an incumbent's microwave system should be required to pay their pro rata share of the full cost of that relocation. (3)

Relocation Rule Modifications

Definition of Good Faith and Comparable Facilities

- Opposes the FCC's definition of good faith negotiations. The fact that an incumbent does not accept a comparable system during the mandatory period is likely a sign of a disagreement as to what is necessary to ensure that the incumbent's microwave network continues to provide state-of-the-art communications for its vital public safety systems. The FCC should not be involved in any disagreements at least until the end of the mandatory negotiation period. (4)
- Opposes the FCC's definition of comparable facilities. Analog systems were state-of-the-art when they were designed and a comparable system should be state-of-the-art by today's standards, which means digital in most cases. Although the commenters are in the process of updating their systems to digital, they currently lack the funds necessary to install a digital system or pay the difference between an analog and a digital replacement. (4-5)

Compensable Costs in Voluntary/Mandatory Periods

- Opposes the FCC's decision not to require that PCS providers pay incumbents' consultant costs during the mandatory negotiation period. Incumbents should be entitled to reimbursement for outside experts employed during the negotiation process. These costs are directly related to incumbents' forced relocation and should be paid by PCS licensees regardless of when a final agreement is reached. (5-6)

MAINE MICROWAVE ASSOCIATES

Interest: Private carrier microwave provider operating a 2 GHz system between Portland and Bangor, Maine

Cost Sharing

- Supports concept of cost sharing as it will improve the ability of both the incumbents and PCS licensees to negotiate a successful conclusion to relocation, including system wide replacement. (2)

Reimbursement Cap

- Believes the reimbursement cap is arbitrarily low in light of its estimates of relocation costs. (2)

Relocation Rule Modifications

Voluntary Negotiation Period

- Incumbents should be permitted to negotiate any and all terms that are mutually acceptable during the voluntary period, since it, at least, has expended monies on travel, engineering, and legal fees. (1)

Definition of Good Faith and Comparable Facilities

- Believes it cannot live with piecemeal replacement of its facilities, since its requirements extend to having a single vendor system that can easily be maintained, instead of a multiple vendor system that may include unreliable analog to analog, analog to digital, digital to digital, and digital to analog conversions. (3)
- Believes changes in the marketplace entitle it to digital equipment to replace its existing system, which was then state-of-the-art; notes further that a digital replacement solution may be less expensive in any event. (4)

Compensable Costs in Voluntary/Mandatory Periods

- Disputes that \$1,000,000 per link is "greenmail," based upon its given assessment of costs. (2)
- Notes that some PCS licensees have asked incumbents to waive their right to relocate back, which requires additional redundancy in the replacement link. (2)

New Microwave Licensing in PCS Band

- Believes incumbents should have greater flexibility to file system modifications to correct prior errors without losing primary status in the band. (4)

Secondary Status in 2005

- Believes the "sunset" provision may force it into a piecemeal solution and believes its should have the flexibility to negotiate a solution within a reasonable time, given that D, E, & F block licensees have yet to be selected. (5)